

EXHIBIT C

In the Matter Of:

In Re Pork Antitrust Litigation

KORY BIRD

March 08, 2022



UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Court File No. 0:18-cv-01776-JRT-HB

IN RE:

PORK ANTITRUST LITIGATION

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ORAL VIDEOTAPED DEPOSITION

KORY BIRD

MARCH 8, 2022

ORAL VIDEOTAPED DEPOSITION OF KORY BIRD, via Zoom,
produced as a witness at the instance of the Defendants
Tyson Foods, Inc., Tyson Prepared Foods, Inc. and Tyson
Fresh Meat, Inc., and duly sworn, was taken in the
above-styled and numbered cause on the 8th day of March,
2022, from 9:00 a.m. to 12:54 p.m., before Melinda
Barre, Certified Shorthand Reporter in and for the State
of Texas, reported by computerized stenotype machine,
all parties appearing remotely via web videoconference,
pursuant to the rules of procedure and the provisions
stated on the record or attached hereto.

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APPEARANCES
(ALL APPEARED VIA ZOOM VIDEO CONFERENCE.)

FOR THE CONSUMER INDIRECT PURCHASER PLAINTIFFS
AND THE WITNESS:

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FOR DEFENDANTS TYSON FOODS, INC., TYSON PREPARED FOODS,
INC. AND TYSON FRESH MEATS, INC.:

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ALSO PRESENT: Caylob Suarez, Videographer and
Document Technician

INDEX

PAGE

Examination by Mr. Holleran	5
Signature Page	109
Court Reporter's Certificate	111

EXHIBITS

EXHIBIT	DESCRIPTION	PAGE
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Exhibit 1	Consumer Indirect Purchaser Plaintiffs' Fourth Amended Consolidated Class Action Complaint	23
Exhibit 2	Consumer Indirect Purchaser Plaintiffs' Supplemental Objections and Responses to Defendants' First Set of Interrogatories	45

4

1 THE VIDEOGRAPHER: We're on the record on
2 March 8, 2022 at 9:00 a.m. Central time for the remote
3 deposition of Mr. Kory Bird in the matter of In Re Pork
4 Antitrust Litigation. My name is Caylob Suarez, and I'm
5 the videographer and document technician on behalf of
6 Lexitas. Will counsel please introduce themselves and
7 the party they represent beginning with the party
8 noticing this proceeding.

9 MR. HOLLERAN: Keith Holleran, Axinn,
10 Veltrop & Harkrider LLP, on behalf of the Tyson
11 defendants.

12 MS. LEE: Kenina Lee also from Axinn,
13 Veltrop & Harkrider also on behalf of the Tyson.

14 MR. AMARA: Abou Amara on behalf of the
15 witness and on behalf of the consumer indirect purchaser
16 plaintiffs.

17 MR. RISSMAN: Josh Rissman, Gustafson
18 Gluek, on behalf of the witness and the consumer
19 indirect purchaser plaintiffs.

20 THE VIDEOGRAPHER: Will the court reporter
21 please swear in the witness.

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1 KORY BIRD,
2 having been first duly sworn, testified as follows:

3 EXAMINATION

4 QUESTIONS BY MR. HOLLERAN:

5 Q. Good morning, Mr. Bird. My name is Keith
6 Holleran; and, as I just said, I represent the Tyson
7 defendants in this case.

8 Could you please state your full name for
9 the record.

10 A. Kory Lee Bird.

11 Q. Have you ever gone by any other name?

12 A. No.

13 Q. Great. So I'll start by covering some ground
14 rules for today's deposition. First, do you understand
15 that you're testifying under oath today?

16 A. Yes.

17 Q. So today I'm going to ask a series of
18 questions. My questions and your answers will be
19 recorded by the court reporter. Do you understand?

20 A. Yes.

21 Q. I ask that you speak clearly and answer all
22 questions verbally so that the court reporter can note
23 your answers. They won't be able to understand if you
24 nod or give a response like "uh-huh" or "huh-uh." Do
25 you understand?

1 purchase these between 2008 and 2018?

2 A. I would say probably two to three times a year
3 in the summertime. And when I cook them, I'll get two
4 huge ones and then package them up for later use with my
5 vacuum sealer after smoking them and cooking them all
6 day long. I'm (inaudible) it for four times each time,
7 it seems like. I'll have enough.

8 Q. First, do you recall providing this information
9 for yourself in Exhibit A for these objections and
10 responses?

11 A. Yep.

12 Q. So you said, I believe -- strike that.

13 Is it correct that you forgot about your
14 purchases of pork butts, and that's why it would not
15 have been reflected in this exhibit?

16 MR. AMARA: Objection, form.

17 A. Possibly, yes.

18 Q. (By Mr. Holleran) Do you have any other
19 understanding for why those purchases would not be
20 reflected in this exhibit?

21 MR. AMARA: Same objection.

22 A. Why they -- say that again.

23 Q. (By Mr. Holleran) Sure. Do you have any other
24 understanding for why your purchases of pork butts would
25 not be reflected in this exhibit?

1 MR. AMARA: Same objection.

2 A. That I just plain forgot.

3 Q. (By Mr. Holleran) And when you purchased pork
4 butts, did you typically purchase a specific brand?

5 A. No, just whatever -- I'm sure Sam's Club only
6 has one brand, and I couldn't even tell you the name of
7 it.

8 Q. So is it correct that you do not know who
9 produced and processed the pork and the pork butts that
10 you purchased?

11 MR. AMARA: Objection, foundation.
12 Objection, form.

13 A. Right, yes.

14 Q. (By Mr. Holleran) And when you were purchasing
15 these pork butts at Sam's Club, were you simply
16 comparing prices in order to decide which one to
17 purchase?

18 A. The only thing that they -- they're all the
19 same. The only thing I'm comparing is size, I guess, on
20 how big of ones I want, how many pounds.

21 Q. Did any other factors impact your decision on
22 what pork butt to purchase at Sam's Club?

23 A. No.

24 Q. And earlier today I believe you also stated
25 that you purchased bacon -- strike that.

1 Earlier today I believe you also stated
2 that you purchased ribs between 2008 and 2018. Is that
3 correct?

4 A. Yes.

5 Q. Do you have any understanding of why your
6 purchases of ribs are not reflected in this Exhibit A?

7 MR. AMARA: Objection, form.

8 A. No.

9 Q. (By Mr. Holleran) Do you recall what brand of
10 ribs you purchased between 2008 and 2018?

11 MR. AMARA: Same objection.

12 A. No.

13 Q. (By Mr. Holleran) Were you purchasing these
14 ribs at Sam's Club typically?

15 A. Yes.

16 Q. Did you purchase these at any other locations
17 between 2008 and 2018?

18 A. I recall all the ribs that I purchased pretty
19 much through those times was at Sam's Club.

20 Q. Do you know if you have any receipts to reflect
21 these purchases of ribs at Sam's Club?

22 A. I had saved them, and I have not been able to
23 locate them lately.

24 Q. And when you say you had saved them, what do
25 you mean by that?

1 Q. Earlier today I believe you stated that you
2 also purchased hams between 2008 and 2018. Is that
3 correct?

4 A. Yes.

5 Q. Do you have any understanding of why your
6 purchases of hams would not be reflected in this
7 exhibit?

8 MR. AMARA: Objection, form.

9 A. Because my wife is usually the one that
10 purchases the hams.

11 Q. (By Mr. Holleran) Are you not claiming damages
12 for those purchases of hams made by your wife between
13 2008 and 2018?

14 MR. AMARA: Objection, calls for a legal
15 conclusion. Objection, form.

16 A. Well, yes. We would be claiming damages for
17 them also.

18 Q. (By Mr. Holleran) So I believe you said that
19 you did not include these in the exhibit because they
20 were made by your wife. Is that correct?

21 MR. AMARA: Objection, misstates prior
22 testimony. Objection, form.

23 A. It would be, yes, things that I wouldn't have
24 recalled.

25 Q. (By Mr. Holleran) And would you not have

61

1 copies of these receipts to reflect those purchases?

2 A. I think I would have; but as I stated earlier,
3 I have not been able to locate my envelope of receipts
4 that I had been saving.

5 Q. And are you saving receipts for purchases of
6 hams made --

7 A. Now.

8 Q. -- now?

9 A. Yes. Yeah. I have been saving receipts again,
10 yes.

11 Q. And --

12 A. I have a new envelope that has been getting
13 more receipts placed in it, yes.

14 Q. And do you know where this envelope of receipts
15 is currently located?

16 A. Yes.

17 Q. Do you recall when you initially misplaced the
18 previous envelope of receipts?

19 A. The last time I remember seeing it is 2002 when
20 I was doing my taxes and cleaning out one of my shelves
21 getting ready for the 2001 tax season.

22 Q. So between 2008 and 2018 did you maintain an
23 envelope of receipts?

24 MR. AMARA: Objection, form.

25 A. Yes.

1 Q. (By Mr. Holleran) And do you recall when you
2 last saw that envelope of receipts?

3 A. My new envelope or the last one?

4 Q. The last one.

5 A. Yes. I just seen it yesterday -- not
6 yesterday. Earlier this week, I guess.

7 Q. I'm sorry. I believe we might be
8 misunderstanding each other.

9 Do you recall when you saw the previous
10 envelope of receipts that you maintained?

11 A. Yeah. The last time, it would have been -- so
12 early -- late 2020/early 2021 the last time that I seen
13 it when I was cleaning out my shelf for my business tax
14 2021 season.

15 Q. Do you maintain an envelope of receipts for
16 each year for tax purposes?

17 A. No.

18 MR. AMARA: Objection, form.

19 A. My business -- my business does for each month.

20 Q. (By Mr. Holleran) And so the envelopes of
21 receipts that contain your pork purchases, those are
22 maintained by yourself, correct?

23 A. Yes.

24 Q. And do you recall how many separate envelopes
25 you have maintained between 2008 and 2018?

1 A. It was just one big manila envelope with my
2 receipts in it.

3 Q. So just to be clear, you maintained one
4 envelope of your receipts that included your pork
5 purchases between 2008 and 2018 and have since started
6 to maintain a separate one to reflect current purchases.
7 Is that correct?

8 A. Yes.

9 MR. HOLLERAN: I'll just note that we'll
10 probably follow up about those receipts.

11 A. Okay.

12 Q. (By Mr. Holleran) And looking at the exhibit
13 for -- at the top of the page, the last two columns, do
14 you see where it says Hog Producer and Hog Processor?

15 A. Yes.

16 Q. And then going back down to your entries, both
17 of those are blank, correct?

18 A. Yes.

19 Q. Do you have any understanding of who produced
20 and processed the pork that you purchased at Sam's Club
21 and HyVee?

22 MR. AMARA: Objection, foundation.
23 Objection, form.

24 A. No, I sure do not.

25 Q. (By Mr. Holleran) So is it correct that a